

Notice of Allowability

Application No.

10/088,749

Examiner

Robert D. Harlan

Applicant(s)

EVANS ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/17/03.
2. ☒ The allowed claim(s) is/are 1,6-29,31-33,36-38,42-46 and 48-74.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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DETAILED ACTION

1. The Amendment filed by Applicants on 11/17/03 has been entered.
2. Claims 2-5, 30, 34-35, 39-41 and 41 have been canceled.
3. New claims 48-74 have been added.

Response to Amendment/Arguments

4. Applicant's amendment and arguments filed on 11/17/03 have been fully considered and they are found persuasive.
5. The rejection of claims 18, 32 and 47 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is withdrawn.
6. The rejection of claims 1-3, 6-10, 12-25, 29, 33-34 and 36-47 under 35 U.S.C. 102(b) as being anticipated by Bochkarev et al., Synthesis and Structure of the First Molecular Thullium

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(II) Complex: $\text{TmI}_2(\text{DME})_3$, Angew. Chem. Int. Ed. Engl. 1997, 36, No. 1/2 (hereinafter "Bochkarev") is withdrawn.

Allowable Subject Matter/Reasons for Allowance

7. Claims 1, 6-29, 31-33, 36-38, 42-46 and 48-74 are allowed.

8. The following is an examiner's statement of reasons for allowance: The closest prior art located or identified by the Examiner is Bochkarev, Brunetti et al., J. Chem. Eng. Data 1999, 44, 509-515 (hereinafter "Brunetti"); Evans, Coordination Chemistry of Samarium Diiodide with Ethers . . . , J. Am. Chem. Soc. 1995, 117 8999-9002 (hereinafter "Evans"). The present invention differs from the cited prior art in that M is dysprosium or neodymium.

9. As of the date of this Notice of Allowability, the Examiner has not located or identified any reference that can be used singularly or in combination with another reference including Bochkarev, Brunetti and Evans to render the present invention anticipated or obvious to one of ordinary skill in the art.

10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to

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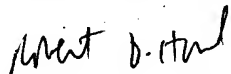
avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (571) 273-1102. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 273-1114. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1495.


Robert D. Harlan
Primary Examiner
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rdh
February 5, 2004